

## REMARKS

Before entry of this Amendment, claims 1-35 were pending in the application. Claims 7, 8, 10, 11, 14 and 22-35 have been withdrawn. After entry of this Amendment claims 1-6, 9, 12, 13 and 15-21 remain pending under examination. The number of total claims has not been increased, and the number of independent claims has not been increased beyond the number for which payment previously had been made.

Applicants have carefully considered the Examiner's Final Action of June 4, 2008, and the references cited therein. The following is a brief summary of the Action. Claims 1-6, 9 and 18-21 were rejected under 35 U.S.C. 103(a) as being unpatentable over Serbiak et al (USP 5,846,232). Claims 12, 13 and 15-17 were rejected under 35 U.S.C. 103(a) as being unpatentable over Serbiak et al in view of Popp et al (USP 6,716,205).

For the reasons explained below, applicants respectfully traverse the rejection of claims 1-6, 9 and 18-21 under 35 U.S.C. 103(a) as being unpatentable over Serbiak et al.

Applicants' article as described in claim 1 includes a bodyside liner that is a composite of base layer material that is necked in a first direction and that is bonded directly to at least a first strip of elastomeric material and a second strip of elastomeric material spaced apart from the first strip. Specifically, the bodyside liner of independent claim 1 is constructed with the following requirements (emphasis added):

at least a first and a second strip of elastomeric material bonded directly to said necked base layer material **with a space between said strips** such that a center necked region of said base layer material is bordered on at least two longitudinally extending sides by flat, planar composite regions of said

elastomeric materials and said base layer material, said center region generally aligned with said absorbent body structure;

This **space between the two strips of elastomeric material** that are bonded to the necked base layer is important so that stretching of the elastomeric strips does not propagate to the center region between the strips and adversely affect the article's structure in that center region. The importance of this space is explained at page 4, lines 9 – 16 of applicants' specification (emphasis added):

The **side strips** of composite material may extend out to serve as **elastomeric side portions** and provide the absorbent article chassis with desired degrees of **stretch without compromising the structural integrity or characteristics of the liquid permeable center necked region** or underlying absorbent body structure. The **side panels and an elastic outer cover may extend independently** from the absorbent body structure, in which case the absorbent structure need not extend and thus have its liquid handling properties change when the chassis is stretched.

Lines 11 – 23 of paragraph 7 on pages 4 – 5 of the June 2008 Final Office Action contend that Serbiak et al teaches (emphasis added):

At least a first and a second strip of elastomeric material attached to the necked base layer material **with a space between the strips** such that a center necked region of the base layer material is bordered on at least two longitudinally extending sides by flat planar composite regions of the elastomeric materials and the base layer material, with the center region generally aligned with the absorbent body structure 36 (**first and second strips include elastic layer 28** in extensible zones 30 – 30D ; center region includes the crosshatched area of absorbent core 36; Figs. 1-9, col. 2, lines 42-47, col. 6, lines 24-31, col. 7, lines 11-38, col. 8, lines 26-48, col. 9, lines 18-23; Claims 10, 17, 23, 35; note that Serbiak teaches that the elastic layer 28 can be disposed where the extensible zones 30-30D are and does

not need to extend over a greater area; the extensible zones are indicated in the figures by circles).

As quoted above, the June 2008 Final Office Action states that Serbiak et al's teaching of the “**first and second strips**” required by claim 1 “**include elastic layer 28.**” As shown in Fig. 2 of Serbiak et al, elastic layer 28 is **continuous**, and thus Serbiak et al elastic layer 28 fails to leave a **space between said strips** as required by claim 1. As such, the elastic in Serbiak et al's center region would compromise the **structural integrity or characteristics of the liquid permeable center necked region** or underlying absorbent body structure.

Applicants therefore respectfully submit that claims 1 – 6 and 9, as presented herein, are patentable under 35 U.S.C. 103(a) over Serbiak et al for this first reason.

The bodyside liner of independent claim 1 is constructed with the following requirements (emphasis added):

wherein said **center region** of necked base layer material is **bonded directly to the immediately underlying portion of said absorbent body structure in registry with the center region of necked base layer material** in its necked condition and said composite regions are stretchable in at least a second direction of said absorbent article.

Similarly, the bodyside liner of independent claim 18 is constructed with the following requirements (emphasis added):

said **center region** of said necked base layer material is adjacent a longitudinally extending composite region of said elastomeric material and said base layer material, said **center region** of necked base layer material generally overlying and **bonded directly to the immediately underlying portion of said absorbent body structure in registry with the center region** of necked base layer material in its necked condition;

As explained at page 4, lines 6 – 16 of applicants' specification (emphasis added):

The center region overlies an absorbent body structure in the absorbent article and is adhered to the underlying absorbent body structure **to ensure that its capillary structure in the necked state of the material does not change upon stressing (stretching) the elastomeric portions.**

As explained at page 22, lines 25 – 27 of applicants' specification, “[t]he necked strip or region 12 of the composite material 10 is extensible but becomes non-extensible when disposed against and adhesively attached to the absorbent body structure 132.” That is why claims 1 and 18 require the **center region** of necked base layer material generally overlying and **bonded directly to the immediately underlying portion of the absorbent body structure in registry with the center region** of necked base layer material in its necked condition. In this way, the center region of necked base layer material and the underlying absorbent body structure are not stretched, and the optimal capillary structure of the absorbent body structure is not disturbed by stretching.

Lines 4 – 6 on page 6 and lines 14 – 15 on page 8 of the June 2008 Final Office Action acknowledge that Serbiak et al does not teach that the first and second strips of elastomeric material are bonded directly to the necked base layer material. Lines 6 – 8 on page 6 and lines 15 – 17 on page 8 of the June 2008 Final Office Action acknowledge that Serbiak et al does not teach that attachment of the center region of the base layer material to the underlying portion of the absorbent body structure is by direct bonding.

To compensate for these deficiencies in Serbiak et al, lines 7 – 16 of page 6 and line 17 on page 8 through line 3 on page 9 of the June 2008 Final Office Action contend (emphasis added):

In light of Serbiak's teaching of securing the elastomeric material to the necked base layer material of the bodyside liner, it would have been obvious to one of ordinary skill in the art to **directly bond the elastomeric material to the necked base layer material**. In light of Serbiak's indication in Figs. 1, 3 and 5-6 of attachment to the absorbent body structure being apparent in a top view, and Serbiak's teaching that attachment of the absorbent body structure to the base layer material prevents extensibility in the area of the absorbent body structure, it would have been obvious to one of ordinary skill in the art to include **direct bonding** to the base layer material of the bodyside liner to the underlying portion of the absorbent body structure.

The problem with these contentions is that they are not stated in the disclosure of Serbiak et al, which states at column 6, lines 12 – 14 that the base structure 26 comprises the cover 22 and bodyside liner 24 and then states at column 8, lines 12 – 14 that (emphasis added):

the absorbent core 36 is **fixed to the base structure 26** to form a nonextensible area 37 defined by the area over which the absorbent core is **effectively attached** to the base structure 26.

Thus, "fixed to the base structure 26" and "effectively attached to the base structure 26" may mean only "fixed to the cover 22" and "effectively attached to the cover 22." And "fixed" and "effectively attached" in no way assures that it is even bonded directly to the cover 22 or the bodyside liner 24. This deficiency is especially suggested by Serbiak et al column 8, lines 8 – 9, which states that in Serbiak et al Fig. 2 "absorbent core 36 is shown mounted between bodyside liner 24 and elastic layer 28." "Mounted between" is

not even “fixed” to the bodyside liner 24 or “effectively attached” to the bodyside liner 24, much less “bonded directly” to the bodyside liner 24.

Thus, the only supportable contention about Serbiak et al is that it shows indirect attachment of certain elements. Accordingly, the essence of this contention of the June 2008 Final Office Action is that indirect attachment of certain elements in Serbiak et al suffices to render direct bonding of certain of the same sorts of elements obvious to the person of ordinary skill.

However, this conclusion of the June 2008 Final Office Action completely discounts the 180 degree difference between something that is **directly bonded** versus something that is **indirectly attached**. The error of such a conclusion already has been explained in applicants’ Amendment filed in February 2008, which is hereby incorporated herein by this reference. Moreover, this erroneous conclusion of the June 2008 Final Office Action fails to account for, much less overcome, the predisposition of the skilled artisan to avoid the risk of degrading either the permeability of the bodyside liner or the capillary absorbency of the portion of the absorbent body structure facing the bodyside liner, if the bodyside liner portion of the absorbent body structure is bonded directly to the immediately underlying portion of the absorbent body structure.

Applicants therefore respectfully submit that claims 1—6, 9 and 18-21, as presented herein, are patentable under 35 U.S.C. 103(a) over Serbiak et al.

For the reasons explained below, applicants respectfully traverse the rejection of claims 12, 13 and 15-17 as being unpatentable under 35 U.S.C. 103(a) over Serbiak et al in view of Popp et al.

Popp et al fails to correct the deficiencies noted above in the Office Action's application of Serbiak et al.

Applicants therefore respectfully submit that claims 12, 13 and 15-17 are patentable under 35 U.S.C. 103(a) over Serbiak et al in view of Popp et al.

Applicants respectfully request reconsideration and reexamination of claims 1-6, 9, 12, 13 and 15-21, as presented herein, and submit that these claims are in condition for allowance and should be passed to issue.

If any fee or extension of time is required to obtain entry of this Amendment, the undersigned hereby petitions the Commissioner to grant any necessary time extension and authorizes charging Deposit Account No. 04-1403 for any such fee not submitted herewith.

The Examiner is encouraged to contact the undersigned at the Examiner's convenience should any additional information be required.

Respectfully submitted,

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16 July 2008  
Date

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